



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 9, 2007

The Council of the City of San José convened in regular session at 11:00 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Constant, Chirco, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

Upon motion unanimously adopted, Council recessed at 11:00 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: one (1) City of San José v. Nibbi Brothers, Inc. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, anticipated litigation, Subsection (b) with respect to significant exposure in one (1) matter; Subsection (c) with respect to initiation of litigation in one (1) matter. (C) Public employee performance evaluation pursuant to Government Code Section 54957, Title: (1) City Attorney; (2) City Manager.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:43 a.m. and reconvened at 1:34 p.m. in the Council Chambers.

Present: Council Members - Campos, Constant, Chirco, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

INVOCATION

Father John Asimacopoulos, St. Nicholas Greek Orthodox Church. (District 1)

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PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Campos, seconded by Council Member Pyle and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with item 5.4(c) dropped. (9-0.)

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0.)

2.1 Approval of minutes:

- (a) **Regular minutes of March 7, 2006**
- (b) **Regular minutes of March 14, 2006**
- (c) **Regular minutes of March 21, 2006**
- (d) **Regular minutes of March 28, 2006**
- (e) **Regular minutes of April 4, 2006**
- (f) **Regular minutes of April 11, 2006**
- (g) **Regular minutes of April 18, 2006**
- (h) **Regular minutes of April 25, 2006**
- (i) **Minutes of Joint Council/Santa Clara Valley Water District of April 4, 2006**
- (j) **Minutes of San José Housing Authority of April 4, 2006**
- (k) **Minutes of San José Financing Authority of April 25, 2006**

Action: The minutes were approved.

- 2.2 (a) **ORD. NO. 27911 – Rezoning certain real property situated in the West Evergreen Strong Neighborhoods Initiative area and located generally on both sides of Towers Lane, between Aborn Road and Amberly Lane, to R-1-8 Single-Family Residence District. CC06-058**

Documents Filed: Proof of Publication of the title of Ordinance No. 27911 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27911](#) was adopted. (9-0.)

- 2.2 (b) **ORD. NO. 27952 – Rezoning certain real property situated on the north side of Rock Avenue, approximately 450 feet westerly of Oakland Road (1041 Rock Avenue) to A(PD) Planned Development Zoning District. PDC06-012**

Documents Filed: Proof of Publication of the title of Ordinance No. 27925 executed on December 12, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27952](#) was adopted. (9-0.)

- (c) **ORD. NO. 27953 – Rezoning certain real property situated at the southerly side of Shenado Place, approximately 500 feet easterly of Gerine Blossom Drive from the R-1-1 Single-Family Residence District to the A(PD) Planned Development Zoning District. PDC06-026**

Documents Filed: Proof of Publication of the title of Ordinance No. 27953 executed on December 12, 2006, submitted by the City Clerk.

Staff requested that Item 2.2(c) be pulled for clarification. Deputy Director of Planning, Building and Code Enforcement Laurel Prevetti stated the General Development Plan was revised as of January 8, 2007 to reflect Council comments from the December 12, 2006 Council meeting.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese and carried unanimously, [Ordinance No. 27953](#) was adopted. (9-0.)

- (d) **ORD. NO. 27954 – Prezoning certain real properties situated at the east side of Noble Lane, 200 feet north of Noble Avenue, to R-1-5 Single Family Residence District. C06-037**

Documents Filed: Proof of Publication of the title of Ordinance No. 27954 executed on December 12, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27954](#) was adopted. (9-0.)

- (e) **ORD. NO. 27955 – Amending Sections 20.90.060 and 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code to reduce parking requirements for specific ground floor commercial uses within neighborhood business districts, to reduce parking requirements for certain miniware-houses/ministorage uses citywide, and making minor, technical or clerical corrections to existing municipal code language.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27955 executed on December 12, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27955](#) was adopted. (9-0.)

**2.3 Approval of the terms and conditions for the Airport advertising concession request for proposals at the Norman Y. Mineta San José International Airport. CEQA: Resolution Nos. 67380 and 71451, File No. PP06-173. (Airport)
(Deferred from 12/12/06 – Item 2.3)**

Documents Filed: (1) Memorandum from Director of Aviation William F. Sherry, dated November 20, 2006, recommending approval of the proposals. (2) Supplemental memorandum from Director of Aviation William F. Sherry, dated December 14, 2006, transmitting additional information.

Action: The terms and conditions for the proposals for the Airport advertising concession was approved. (9-0.)

**2.4 (a) Acceptance of the annual report on the Neighborhood Security Bond Program for fiscal year 2005-2006.
(b) Acceptance of the annual report on the Safe Neighborhood Parks and Recreation Bond Program for fiscal year 2005-2006.
(c) Acceptance of the annual report on the Branch Library Bond Program for fiscal year 2005-2006.**

CEQA: Not a Project. (Citizen Oversight Committee)

Documents Filed: (1) Memorandum from Citizen Oversight Committee for the Public Safety Bond Program, dated November 29, 2006, recommending acceptance of the annual report. (2) Memorandum from Citizen Oversight Committee for Parks and Recreation Bond Projects, dated December 4, 2006, recommending acceptance of the annual status report. (3) Memorandum from Citizen Oversight Committee for the Library Bond Projects, dated December 4, 2006, recommending acceptance of the annual status report.

Action: The reports were accepted. (9-0.)

2.5 Approval of a second amendment to the agreement between the City and R3 Consulting for solid waste consulting services to revise the scope of services to include monitoring and technical services for the 2007 Recycle Plus Transition and for Recycle Plus rate modeling, extending the term through December 30, 2007, and increasing the compensation by \$100,000, from \$300,000 to a not to exceed amount of \$400,000. CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stuffbean, dated December 4, 2006, recommending approval of a second amendment to the agreement.

Action: The second amendment to the agreement was approved. (9-0.)

2.6 Approval to reject the sole bid for the construction project entitled “San José/Santa Clara Water Pollution Control Plant, FY 2006-2007 Capital Improvement Program, 30-inch Gate Valves Replacement for Process Water Pump.” CEQA: Exempt, File No. PP05-124. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated December 4, 2006, recommending approval to reject the sole bid. (2) Letter from Treatment Plant Advisory Committee, Chair Patricia Mahan, dated December 14, 2006, stating concurrence with the Staff recommendation.

Action: The rejection of the bid was approved. (9-0.)

2.7 Approval of an agreement with Carollo Engineers for consultant services for the development of the San José/Santa Clara Water Pollution Control Plant’s “Plant Reliability Improvements Project-Operations and Maintenance Manual,” from the date of execution until December 15, 2008 for a total amount not to exceed \$399,000. CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated December 4, 2006, recommending approval of an agreement with Carollo Engineers. (2) Letter from Treatment Plant Advisory Committee, Chair Patricia Mahan, dated December 14, 2006, stating concurrence with the Staff recommendation.

Action: The agreement with Carollo Engineers was approved. (9-0.)

2.8 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #13 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s Memorandum to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Documents Filed: Memorandum from Memorandum from Director of Finance Scott P. Johnson, dated December 4, 2006, recommending approval of the open purchase orders and authorization for the Director of Finance to execute the purchase orders.

Action: The award of open purchase orders for FY 2006-2007 #13 was approved and the Director of Finance was authorized to execute the purchase orders. (9-0.)

2.9 Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the agreement between the City and National Security Industries for security guard services at the Norman Y. Mineta San José International Airport increasing compensation by \$550,000 from \$600,000 to \$1,150,000 for the contract period ending March 31, 2007. CEQA: Resolution Nos. 67380 and 71451, PP06-197. (Finance)

2.9 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Scott P. Johnson, dated December 4, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73582](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the First Amendment to the Agreement with National Security Industries for Security Guard Services at the Norman Y. Mineta San José International Airport", was adopted. (9-0.)

2.10 Adoption of a resolution to create the following job classification: Principal Permit Specialist (3901). CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated December 12, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73583](#), entitled: "A Resolution of the Council of the City of San José Creating the Job Classification of Principal Permit Specialist (3901)", was adopted. (9-0.)

2.11 Report on bids and award of contract for the Davis Street Sanitary Sewer Replacement Project to the low bidder, D'Arcy Harty Construction, Inc., in the amount of \$1,163,690.40 and approval of a contingency in the amount of \$117,000. CEQA: Exempt, PP06-123. Council District 6. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 4, 2006, recommending approval of award of the contract.

Action: The award of contract to the D'Arcy Harty Construction Inc., the low bidder, was approved. (9-0.)

2.12 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period October 16, 2006 through November 15, 2006. (City Auditor) (Rules In-Lieu referral 1/3/07)

Documents Filed: The Report of Activities for the period October 16 through November 15, 2006, from the Office of the City Auditor.

Action: The report was accepted. (9-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Approval of Minutes.

- (a) Council Study Session on the Coyote Valley Specific Plan Minutes of April 28, 2006.**

Documents Filed: Coyote Valley Specific Plan Minutes, dated April 28, 2006.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Coyote Valley Specific Plan Minutes were approved. (9-0.)

3.2 Report of the Rules Committee – December 13, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated December 13, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review January 9, 2007 Draft City Council Agenda. Attachment: Memorandum from Council Member Reed, dated December 13, 2006, recommending items for the City Council meeting on 1/9.07.
 - (a) Adds to the January 9, 2007 Draft City Council Agenda

The Committee approved the January 9, 2007 City Council Agenda with two additions.

- (2) Add New Items to December 19, 2006 Agenda
None, meeting cancelled.
 - (3) List of Reports Outstanding. - There were none.
- (c) Legislative Update
 - (1) State
 - (a) 2006 State Legislative Summary. (City Manager). Attachments:
 - (1) Memorandum from Intergovernmental Director Betsy Shotwell, dated December 7, 2006, recommending acceptance of the report.
 - (2) Memorandum from Roxanne Miller, dated December 7, 2006, recommending acceptance of San José's Legislative Representative's Report.

The Committee accepted the report from the City's Legislative Representative.

3.2 Report of the Rules Committee – December 13, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(c) Legislative Update (Cont'd.)

(2) Federal

- (a) Summary of Federal Relation Activities - Year End 2006. (City Manager) Attachment: Memorandum from Intergovernmental Director Betsy Shotwell, dated December 5, 2006, recommending acceptance of the City's Federal lobbyist firm report.

The Committee accepted the report from the City's Federal lobbyist.

(d) Meeting Schedules

- (1) Proposed 2007-2008 City Budget Calendar. (Budget Office)

The Committee approved the proposed 2007-2008 City Budget Calendar.

- (e) The Public Record - The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

- (g) Rules committee Reviews, Recommendations and Approvals - There were none.

- (h) Review of Significant Public Records Act Requests - There were none.

- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.

- (j) Open Forum

Tessa Woodmansee spoke about the lack of enforcement by the City of San José of the noise and air quality standards of the Royal Coach Tour Bus Company.

- (k) Adjournment - The meeting was adjourned at 3:08 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Chirco and carried unanimously, the Rules Committee Report and the actions of December 13, 2006, were accepted. (9-0.)

3.4 (a) Acceptance of a report on recent State actions establishing a statewide franchising system for video services and implications on AT&T's encroachment permit applications for its Project Lightspeed.

- (b) Approval of an ordinance allowing the use of City's right of way by providers of Video Services under certain specified conditions.**

- (c) Direction to staff regarding the negotiation of a "Gap Agreement" with AT&T for the provision of video services within San José.**

CEQA: Not a Project. (City Manager's Office)

(Deferred from 11/14/06 – Item 3.6, 12/5/06 – Item 3.4, and 12/12/06 – Item 3.9)

3.4 (Cont'd.)

Documents Filed: (1) Memorandum from Deputy City Manager Ed Shikada, dated November 2, 2006, recommending acceptance of the report. (2) Supplemental memoranda from Deputy City Manager Ed Shikada, dated November 13, 2006, and December 20, 2006, transmitting additional information for Project Lightspeed.

Deputy City Manager Ed Shikada provided an overview of the implementation plan for Project Lightspeed.

Public Comment: AT&T Representatives Leon Beauchman, Robert Ruiz, Mark Leslie, and Silvia Samano discussed the community outreach plan, the design of the “box” and construction/installation in service areas. Comments made in support of the Staff recommendation were: Michele Lew, Asian Americans for County Involvement, Charles Jones, Louie Rocha, Communications Workers of America Local 9423, Dennis King, Bob Hines, representing San José Silicon Valley Chamber of Commerce, and Seth Fearey, Joint Venture: Silicon Valley Network. William Garbett spoke in opposition to the Staff recommendation.

Significant Council comments and questions followed.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the report was accepted, and [Ordinance No. 27956](#), entitled: “An Ordinance of the City of San José Allowing the Use of the City’s Right Of Way by Providers of Video Services Under Certain Specified Conditions”, was passed for publication, including: (1) Staff to work with the community and AT&T to minimize blockage of visibility and obstruction of views. (2) Staff to follow-up on new legislation regarding the State Franchise Agreements. (3) AT&T to include San José in their application for State Franchise Agreements. (4) AT&T to distribute notices in English, Spanish and Vietnamese and work with staff to identify any other languages that notices should be translated into. (5) Staff directed to begin issuing encroachment permits and move quickly to ensure that the communication plan is translated into additional languages. (6) Staff to provide a quarterly update on the progress of the project. (9-0.)

ITEM 3.5 WAS HEARD IN THE EVENING (SEE PAGE 21)

- 3.6 (a) Conduct a public hearing to consider the use of public lands located within the Guadalupe Gardens Underground Utility District by Pacific Gas and Electric Company, and adoption of a resolution approving the use of the public lands.**
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a temporary construction easement agreement and permanent easement agreement with Pacific Gas and Electric Company to use public lands for the installation of utility company aboveground cabinets.**

CEQA: Exempt, PP02-10-306. Council District 3. (Public Works)

3.6 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated December 4, 2006, recommending a public hearing and adoption of resolutions. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated January 4, 2007, transmitting additional information.

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, [Resolution No. 73584](#), entitled: "A Resolution of the Council of the City of San José Approving the Use of Public Lands for the Installation of Above Ground Utility Cabinets for the Guadalupe Gardens Underground Utility District", and [Resolution No. 73585](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Temporary Construction Easement Agreement and a Permanent Easement Agreement with PG&E for the Guadalupe Gardens Underground Utility District Project", were adopted. (9-0.)

3.7 **Adoption of a resolution urging NBC-Universal to reconsider the decision to eliminate KSTS-48 Telemundo's "Noticiero 48" broadcast which serves the Latino community with access to local information and a platform for Latino concerns. (Campos)** **(Rules In-Lieu referral 1/3/07)**

Action: This item was dropped.

3.8 **Approval of City Council and Redevelopment Agency Committee restructuring and appointments, and adoption of a resolution amending the Council Rules of Conduct for Meetings. (Mayor)** **(Rules In-Lieu referral 1/3/07)**

Documents Filed: (1) Memorandum from Council Member Reed, dated December 22, 2006, recommending approval of the appointments, amendments and adoption of a resolution. (2) Supplemental memorandum from Mayor Reed, dated January 9, 2007, transmitting additional information.

Mayor Reed provided an overview of the recommendations, as modified. He noted that it may be necessary to shuffle some assignments in June after the vacancies in Districts 4 and 6 are filled. The Mayor also noted that the location of the Closed Sessions will be moved and more work will be encouraged at the Council Committee level to provide for better decisions and greater involvement in the legislative process.

Public Comment: Ross Signorino suggested that Open Forum be moved to the beginning of the meeting.

3.6 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73586](#), entitled: “A Resolution of the Council of the City of San José Amending the Rules for the Conduct of its Meetings, and Superseding Resolution No. 73321”, was adopted, with the following amendments: Closed Sessions to be convened in the Council Conference Room (W133); Committee restructuring approved and Committee Assignments approved as modified: (1) The Investment Committee appointment was removed; a member of the public to be appointed; (2) The HCP Advisory Group name was changed to the Santa Clara Valley Habitat Plan and the assignment changed from Mayor Reed to Council Member Chirco; (3) The CDBG Steering Committee name was changed to the Housing and Community Development Advisory Commission; (4) The Mayor’s Aging Leadership Council name was changed to Aging Leadership Group; and (5) Council Member Campos was added as Co-Chair of the Domestic Violence Advisory Board. (9-0.)

NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – December 14, 2006

Documents Filed: The All Children Achieve Committee Report dated December 14, 2006.

- (a) Agreement between United Way Community Impact Needs Assessment Report and Neighborhood Services CSA Programs and Services (City Manager’s Office)
This item was deferred to February 2007.
- (b) Follow up to Review of Legislative Priorities (City Manager’s Office) [Continued from November 9, 2006] (DROPPED – Information Memo coming in December)
This item was dropped.
- (c) BEST Cycle 15 Final Evaluation Report (Parks, Recreation, and Neighborhood Services)
- (d) Review of Neighborhood Services CSA Administrative Workload (Parks, Recreation, and Neighborhood Services/Library/Housing)
- (e) Report from the San José Education Foundation (Mayor’s Office)
- (f) Oral Petitions
- (g) Adjournment

The meeting was adjourned due to lack of quorum. No action taken on any of the items.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the All Children Achieve Committee Report and the actions of December 14, 2006, were accepted. (9-0.)

5.2 Report of the Building Strong Neighborhoods Committee – December 18, 2006

Documents Filed: The Building Strong Neighborhoods Committee Report dated December 18, 2006.

- (a) Building Strong Neighborhoods Update/Status Report. Attachment: Memorandum from Deputy City Manager Mark Linder, dated December 18, 2006, recommending approval of the report.

The Committee approved the report.

- (b) Review of Neighborhood Services CSA Administrative Workload. Attachment: Memorandum from Library Director Jane Light, dated December 6, 2006, transmitting the report.

The Committee approved the report.

- (c) Review of Public Safety CSA Administrative Workload. Attachment: Memorandum from Chief of Police Robert L. Davis, dated December 6, 2006, transmitting the report.

The Committee approved the report.

- (d) Animal Care & Services. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated December 4, 2006, transmitting the report.

The Committee approved the report.

- (e) Oral Petitions

Peter Ross spoke on noise pollution.

- (f) Adjournment - The Committee adjourned at 3:45 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of December 18, 2006, were accepted. (9-0.)

- 5.3 (a) **Final adoption of Ordinance No. 27949, amending Chapter 14.25 of Title 14 and Chapter 19.38 of Title 19 of the San José Municipal Code in order to revise crediting provisions for public recreational improvements, to revise the time for payment of the In-Lieu fees to include recreation facilities, and to make technical changes.**
- (b) **Adoption of a resolution establishing the revised Fees and Credits associated with the Parkland Dedication Ordinance and Park Impact Ordinance (1) to increase the park in-lieu fees to 100% of the 2005 land values; (2) to revise the credit schedule for private recreation improvements and (3) to set a discounted fee for certain residential high rise projects located in the Downtown Core Area and to permit certain eligible high rise projects located in the Downtown Core Area to defer payment until no later than the scheduling of the final inspection for the first certificate of occupancy.**
CEQA: Resolution No. 65459. (City Attorney's Office)
[Deferred from 12/12/06 – Item 5.2(b)(2)]

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated December 21, 2006, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated December 20, 2006, transmitting additional information. (3) Proof of Publication of the title of Ordinance No. 27949 executed on December 22, 2006, submitted by the City Clerk.

Director of Parks, Recreation and Neighborhood Services Albert Balagso and Director of Housing Leslye Krutko responded to Council questions.

Public Comment: Kerri Hamilton, Citizens for a Livable San José, spoke in support of the Staff recommendations.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chirco and carried unanimously, [Ordinance No. 27949](#), entitled: “An Ordinance of the City of San José Amending Chapter 14.25 of Title 14 and Chapter 19.38 of Title 19 of the San José Municipal Code in Order to Revise Crediting Provisions for Public Recreational Improvements, to Revise the Time for Payment of the In-Lieu Fees Collected Pursuant to These Chapters Under Certain Circumstances, to Expand the Use of These In-Lieu Fees to Include Recreational Facilities, and to Make Technical Changes”, and [Resolution No. 73587](#), entitled: “A Resolution of the Council of the City of San José Setting Forth the Schedule of In-lieu Fees Charged and Credits Issued Pursuant to Chapters 14.25 and 19.38 of the San José Municipal Code”, were adopted. (9-0.)

- 5.4 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction and Conveyance Tax Fund: City-wide Parks Purposes (Fund 391);**
- (1) **Increase the estimate for Grants in the amount of \$541,000;**
 - (2) **Increase the City-wide Skateboard Park Development appropriation in the Parks, Recreation and Neighborhood Services Department in the amount of \$997,000; and**
 - (3) **Decrease the Ending Fund Balance by \$456,000**
- (b) **Report on bids and award of contract for the Lake Cunningham Regional Skate Park Project to the low bidder, Robert A. Bothman, Inc., in the amount of \$4,761,300, and approval of a contingency in the amount of \$240,000.**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated December 4, 2006, recommending adoption of an appropriation ordinance and funding sources resolution and award of the contract. (2) Supplemental memorandum from Director of Public Works Katy Allen, Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry D. Lisenbee, dated December 22, 2006, transmitting additional information after the bid opening.

Action: Upon motion by Council Member Chirco, seconded by Council Member Yeager and carried unanimously, [Ordinance No. 27957](#), “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Moneys in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes for the City-Wide Skateboard Park Development; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and [Resolution No. 73588](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes”, were adopted, and the award of the contract to the low bidder was approved. (9-0.)

- (c) **Adoption of a resolution approving the Lake Cunningham Regional Skate Park Project and incorporating environmental mitigation measures set forth in the Mitigation Monitoring and Reporting Program for the project.**
- CEQA: Mitigated Negative Declaration, PP06-043. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Action: This item was dropped.

- 5.5 (a) **Authorization to forward correspondence to ABAG on draft housing needs methodology. (Cortese)**
(b) **Direction to the City Manager to prepare a letter forwarding comments to the Association of Bay Area Governments regarding the proposed Regional Housing Needs Methodology. CEQA: Not a Project. (Planning, Building and Code Enforcement/Housing)**
(Rules In-Lieu referral 1/3/07)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Krutko, dated January 5, 2007, recommending direction to the City Manager to prepare a letter forwarding comments to ABAG.

Brief Council comments followed.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chirco and carried unanimously, authorization to forward correspondence to ABAG on draft housing needs methodology was approved, with direction to Staff to brief ABAG representatives before the January 18, 2007 ABAG meeting. (9-0.)

TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee – December 4, 2006

- (a) Update on Transportation Infrastructure Maintenance Needs Master Plan. (Transportation)
(b) Progress Report on BART to Silicon Valley Project. (Transportation)
See Item 6.4 for Council action taken.
(c) Final Report on Taxi Program. (Transportation, Airport, Police Department)
See Item 6.5 for Council action taken.
(d) Oral Petitions
(e) Adjournment

Action: This item was deferred to January 23, 2007.

6.2 Approval of the Airport Commercial Paper Program Expansion.

- (a) **Hold a Tax Equity and Fiscal Responsibility Act hearing for the issuance of Series B [Alternative Minimum Tax (AMT)] commercial paper notes under the commercial paper program established for the Norman Y. Mineta San José International Airport with a limit of \$450 million in order to fund projects and capitalized interest associated with the implementation of the Airport Master Plan.**

(Item continued on the next page)

- 6.2 (b) **Adoption of a resolution of the City Council amending Resolution No. 69200, as amended, to authorize an increase of \$250 million, for a total authorization of \$450 million, in the aggregate maximum amount of Series A, Series B, and Series C commercial paper notes that can be issued under the commercial paper program established for the Norman Y. Mineta San José International Airport to fund projects and capitalized interest associated with the Airport Master Plan.**
- (c) **Adoption of a resolution of the City Council authorizing the Director of Finance to negotiate and execute the Amended and Restated Letter of Credit and Reimbursement Agreement among the City of San José and JPMorgan Chase Bank National Association, Bank of America, N.A., Citibank, N.A., and Dexia Credit Local (collectively, the “Banks”) relating to the Norman Y. Mineta San José Airport International Subordinated Commercial Paper Program, increasing the Maximum Stated Amount from \$200 million to \$450 million, and removing the \$35 million cap on the issuance of taxable notices.**
- CEQA: Resolution Nos. 67380 and 71451, PP 06-193. (Finance/Airport)**

Documents Filed: (1) Memorandum from Director of Finance Scott P. Johnson and Director of Aviation William F. Sherry, dated December 4, 2006, recommending TEFRA hearing be held and adoption of resolutions. (2) Supplemental memorandum from Director of Finance Scott P. Johnson, dated December 22, 2006, transmitting additional information.

Director of Finance Scott P. Johnson presented an overview of the Airport commercial Paper Program Expansion.

Public Comment: Mayor Reed opened the TEFRA Hearing. There was no testimony from the floor. Mayor Reed closed the TEFRA Hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73589](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 69200 to Authorize Issuance of a Combination of Series A, Series B, and Series C Commercial Paper Notes Under the Commercial Paper Program Established for the Norman Y. Mineta San José International Airport Through an Increase in the Aggregate Limit from \$200 Million to \$450 Million in Order to Fund Projects and Capitalized Interest Associated with the Airport Master Plan; and Delegating to the Director of Finance and Other Officers of the City Authorization to Establish Terms and Conditions for the Issuance and Payment of Said Notes, and to Take Other Necessary Actions and to Prepare, Execute and Deliver Other Necessary Documents in Connection Therewith”, and [Resolution No. 73590](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute the Amended and Restated Letter of Credit and Reimbursement Agreement Among the City of San José, JPMorgan Chase Bank, CitiBank, Bank of America and Dexia Credit Local, Relating to the Norman Y. Mineta San José International Airport Subordinated Commercial Paper Notes, Increasing the Maximum Stated Amount from \$200 Million to \$450 Million and Removing the \$35 Million Cap on the Series C Letter of Credit Maximum Stated Amount”, were adopted. (9-0.)

6.3 Approval of actions related to the On-Airport Rental Car Agreements.

- (a) Approval of sixth amendments to the On-Airport Rental Car Operations Agreement and Leases with Enterprise Rent-A-Car Company of San Francisco, Fox Rent A Car, Inc., and Thrifty Rent-A-Car System, Inc., changing the definition of Gross Revenues, reallocating space, providing rent credits for required refurbishments, requiring reporting of Disadvantage Business Enterprise participation, and extending the term of the agreements from January 31, 2007 to June 30, 2010.**
- (b) Approval of sixth amendments to the Amended and Restated On-Airport Rental Car Operations Agreement and Leases with Avis Rent A Car System, LLC, Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, changing the definition of Gross Revenues, reallocating space, providing rent credits for required refurbishments, requiring reporting of Disadvantage Business Enterprise participation, and extending the term of the agreements from January 31, 2007 to June 30, 2010.**
- (c) Approval of third amendments to the Rental Car Storage Ground Leases with Enterprise Rent-A-Car Company of San Francisco, Fox Rent A Car, Inc., and Thrifty Rent-A-Car System, Inc., extending the term of the agreements from January 31, 2007 to June 30, 2010.**
- (d) Approval of ninth amendments to the Rental Car Service Center Ground Leases with Avis Rent A Car System, LLC, Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, LLC, DTG Operations, Inc. d/b/a Dollar Rent A Car, and The Hertz Corporation, extending the term of the agreements on the same terms and conditions from January 31, 2007 to June 30, 2010.**

CEQA: Resolution Nos. 67380 and 71451, PP 06-192. (Airport)

Documents Filed: Memorandum from Director of Aviation William F. Sherry, dated December 4, 2006, recommending approval of the On-Airport Rental Car Agreements.

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, the actions related to the On-Airport Rental Car Agreements, were approved. (9-0.)

**6.4 Acceptance of the status report on BART extension to San José/ Silicon Valley.
[Building Better Transportation Committee referral 12/4/06 – Item(b)]**

Action: This item was deferred to January 23, 2007.

**6.5 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the On-Demand Dispatch Services Agreement with Taxi San José, Inc. to eliminate the increase in compensation for the second year of the agreement, retroactive to October 1, 2006.
[Building Better Transportation Committee referral 12/4/06 – Item(c)]**

Action: This item was deferred to January 23, 2007.

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1**
- (a) Adoption of a resolution terminating a Ground Lease with the Almaden Hills United Methodist Church for the Hoffman/Via Monte Neighborhood Center.**
 - (b) Approval of a five-year lease agreement with Harry Delizonna Family Trust for 900 square feet of commercial space on the ground floor of a building located at 1180 Blossom Hill Road at a rental rate of \$2,520 per month for the first year of the lease with annual increases of 3% to \$2,836 per month for the final year for a total rent of \$160,548.24 plus annual operating expenses over the five-year term of the lease.**
 - (c) Approval of the termination of the Cooperation Agreement between the City and the Redevelopment Agency for the Hoffman/Via Monte Neighborhood Center.**

**CEQA: Not a Project. SNI: Hoffman/Via Monte. District 10. (Redevelopment Agency/City Manager's Office)
(Rules Committee referral 12/13/06)**

Documents Filed: Memorandum from Council Member Pyle, dated January 8, 2007, recommending to defer the resolution terminating a Ground Lease and to defer termination of a Cooperation Agreement. (2) Memorandum from City Manager Les White and Executive Director Redevelopment Agency Director Harry S. Mavrogenes, dated December 20, 2006, recommending adoption of a resolution terminating a Ground Lease, approval of a five-year lease agreement with the Harry Delizonna Family Trust, and approval to terminate a Cooperation Agreement. (3) Hoffman Via Monte Satellite Center proposed programs and services document, copy of Community Building sketch and photo of 1180 Blossom Hill submitted by Retha Hudson, January 9, 2007.

Motion: Council Member Pyle moved approval of her memorandum dated January 8, 2007. Council Member Campos seconded the motion.

Public Comment: The following representatives of the Almaden Hills United Methodist Church spoke in opposition to the Staff recommendation: Pastor Carole Vincent, Judy Demko, Dick McKewan, Retha Hudson, Rita Tarling and Micaela Montes.

Council Member Pyle requested a deferral of one month before any extension is granted and encouraged her colleagues to approve the five-year lease agreement.

Action: On a call for the question, the motion carried unanimously, the memorandum from Council Member Pyle, dated January 8, 2007, was approved deferring the items for 30 days; and a five-year lease agreement with the Harry Delizonna Family Trust was approved. (8-0-1. Absent: Williams.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9811	Westerly terminus of Delmas Avenue and Dorothy Avenue	6	Stonebridge Development LLC	8 Lots / 7 Units	SFD	Approve

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9889	NS of Cherry Avenue, 1,000' West of Almaden Expressway	9	4970 Cherry Avenue, Owner, LLC	1 Lot / 32 Units	MFA
9892	NE corner of Southwest Expwy & Fruitdale Ave.	6	Mr. Daniel Hudson	1 Lot / 91 Units	MFA

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in December 2006:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Norman Y. Mineta San José International Airport General Engineering Contract 06-07 Bravo	Citywide	O'Grady Paving Inc.	\$781,000	12/7/06
Singleton Rd. Landfill Flaring System	9	LFG Control Corp.	\$261,000	12/21/06

OPEN FORUM

Documents Filed: Article 'People are a force of nature' submitted by Jill Cody on January 9, 2007

- (1) Stephen Hazel provided suggestions to the Mayor regarding accepting public comments.
- (2) Jill Cody requested an opportunity to present to the Council an overview of the "Climate Project".
- (3) Daniel McCall issued a complaint regarding treatment by San José Police.
- (4) William Garbett commented on Brown Act requirements for Council Assistants' meetings and summarized observations about Fire Station #13.
- (5) Robert Apgar voiced personal observations.
- (6) Ross Signorino expressed concerns regarding the City of San José supplying services to Sunnyvale in relation to the 49er's move to Santa Clara and urged the Council to disclose to the public costs for "in-kind" services.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 3:47 p.m.

RECESS/RECONVENE

The City Council recessed at 3:47 p.m. from the afternoon Council Session and reconvened at 7:06 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Constant, Chirco, Cortese, Liccardo, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Districts 4 and 6.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Cortese, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to the Oak Grove Youth Football and Cheer for winning the national title from the Pop Warner Super Bowl. (Williams) (Rules In-Lieu referral 1/3/07)

Action: Mayor Reed and Council Member Williams recognized and commended the Oak Grove Youth Football, Cheer and Dance Troop from the Pop Warner Super Bowl.

STRATEGIC SUPPORT SERVICES

3.5 (b) Approval of Reed Reforms 29-32, in order to complete time sensitive tasks related to the budget process.:

- (1) Approval and direction to staff to begin work on reforms 29-32 related to “Change to a Community Based Budgeting Process” and direction to staff to take the necessary actions, as noted in actions below to implement these reforms.**
- (2) Direction to the Administration to designate funds from the Council General appropriation to fund the Community Budgeting Priorities Survey (Reed Reform #29) and the Neighborhood Association Meeting (Reed Reform #30), to be held on January 20, 2007.**
- (3) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Fairbank, Maslin, Maullin & Associates, Inc. to develop and implement the Community Budget Priorities Survey, increasing compensation by \$30,000, from \$99,930 to an agreement amount not to exceed \$129,930 with no change in the agreement term.**
- (4) Approval of the framework for the Council Priority Setting Process and to request that the Rules Committee set an all day Council Priority Setting Hearing on February 20, 2007.**

(Reed)

(Rules Committee referral 12/13/06)

3.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor-Elect Reed, dated December 13, 2006, recommending items for the January 9, 2007 City Council Agenda. (2) Memorandum from Mayor-Elect Reed, dated December 22, 2006, recommending that Staff take action on the Reed Reforms, as recommended in Attachment A and approval of Reed Reforms 29-32.

Mayor Reed provided an overview and outlined the purpose and process used to develop the reforms and began the discussion with item 3.5 (b).

Public Comment: The following individuals spoke in of the Reed Reforms: Don Gagliardi, Dennis Cima, Vice President of Silicon Valley Leadership Group, Dan Pullcrano, Vice Chair, Sunshine Reform Task Force, Karl Hoffower, Sunshine Reform Task Force Member, Pierluigi Oliverio, Bob Hines, Vice President, Public Policy Committee, San José/Silicon Valley Chamber of Commerce. William Garbett spoke off topic.

Council questions to Staff ensued. Suggestions for expanding outreach were expressed and included in the actions, as follows:

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73593](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with Fairbank, Maslin, Maullin & Associates, Inc. to Include Services Relating to the Community Budget Priorities Survey, Increasing Compensation by \$30,000, to a Total Amount Not to Exceed \$129,930", was adopted, and Staff was directed to: (1) Get input from the public on unfunded needs; (2) Collaborate with the Council Offices on public outreach (compare and compile various mailing lists); (3) Work with the Consultant to ensure greater outreach to San José's diverse communities. (9-0.)

3.5 (a) Discussion and direction to staff to take action on the Reed Reforms as recommended in Attachment A.

Public Comment: Ed Rast, Chair of the Sunshine Reform Task Force and Margie Mathews, Member of the Sunshine Reform Task Force, provided an update on the work of the task force.

City Attorney Richard Doyle responded to questions on reforms inquiring greater disclosure, more notice and triggers.

3.5 (a) (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Williams and carried unanimously, the recommendations outlined in the Reed Reforms (Attachment A) were approved, as amended: (1) Recording of Closed Sessions postponed; referred to the Sunshine Reform Task Force. (2) Staff directed to publish all staff reports at least 10 days before the Council meeting and requested that staff bring back for Council consideration exceptions to the rule. (3) Staff directed to publish agreements with bargaining units after ratified by the union and 10 days before the Council meeting. (4) Monthly hearings on the status of the Council directives to be added to Council Committee Work Plans. (9-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.2 Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Monterey Park No. 110 on an approximately 42.6 gross acre County Pocket containing 3 parcels on the East side of Coyote Rd., 1700 ft. northerly of Silver Creek Valley Rd. and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement) (Continued from 11/14/06 – Item 4.10)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 11, 2006, recommending adoption of the resolution.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73594](#), entitled: “A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited, Unincorporated Island Territory Designated as Monterey Park No. 110, Subject to Liability for General Indebtedness of the City”, was adopted. (9-0.)

- 4.3 Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Oak Grove No. 70 on an approximately 14.66 gross acre County Pocket consisting of portions of 7 parcels on the south side of Manila Dr. and Curie Dr., west of San Ignacio Ave. and detachment of the same from the appropriate special districts properties including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement) (Continued from 11/14/06 – Item 4.11)**

4.3 (Cont'd.)

Documents Filed: Memorandum from Director of Planning Building and Code Enforcement Joe Horwedel, dated December 11, 2006, recommending adoption of a resolution.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, [Resolution No. 73595](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited, Unincorporated Island Territory Designated as Oak Grove No. 70, Subject to Liability for General Indebtedness of the City", was adopted. (9-0.)

4.4 **Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Orchard No. 148 on an approximately 36.09 gross acre County Pocket consisting of 3 parcels on the northerly side of Seely Ave., west of Montague Expressway and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 4. (Related Rezoning C06-083). (Planning, Building and Code Enforcement)** **(Continued from 11/14/06 – Item 4.15)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 11, 2006, recommending adoption of a resolution.

Public Comment: Mayor Reed opened the public hearing. Jim Foran asked Council to consider a master plan and traffic circulation study for all the parcels south of River Oaks Village and northeast of Montague Expressway. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Yeager and carried unanimously, [Resolution No. 73596](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited, Unincorporated Island Territory Designated as Orchard No. 148, Subject to Liability for General Indebtedness of the City", was adopted. (9-0.)

4.5 **Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as McKee No. 132 on an approximately 10.89 gross acre County Pocket consisting of one parcel on the southwesterly corner of Capitol Avenue and Gimelli Way and detachment of the same from the appropriate special districts properties including Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459 (Related Rezoning C06-044). Council District 5. (Planning, Building and Code Enforcement)** **(Continued from 11/14/06 – Item 4.16)**

4.5 (Cont'd.)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 11, 2006, recommending adoption of the resolution.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Campos, seconded by Council Member Cortese and carried unanimously, [Resolution No. 73597](#), entitled: "A Resolution of the Council of the City of San José Making Determinations and Ordering the Reorganization of Certain Uninhabited, Unincorporated Island Territory Designated as McKee No. 132, Subject to Liability for General Indebtedness of the City", was adopted. (9-0.)

4.6 **Public Hearing and adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Sunol No. 73 on an approximately 0.41 acre County Pocket containing 3 parcels on the east side of Page Street, approximately 200 feet southerly of Douglas Street, and the implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration, File No. PDC06-010. SNI: Burbank/Del Monte. Council District 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 4, 2006, recommending adoption of a resolution.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73598](#), entitled: "A Resolution of the Council of the City of San José Ordering the Reorganization of Certain Uninhabited Territory Designated as Sunol No. 73, Subject to Liability for General Indebtedness of the City", was adopted. (9-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Public Hearings on the Consent Calendar were approved and the below listed actions were taken as indicated. (9-0.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located at the southwest corner of Winchester Boulevard and Payne Avenue (1301 S. Winchester Boulevard) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow retail sales of food and beverages at an existing gasoline service station on a 0.58 gross acre site (Chevron USA Inc, Owner). SNI: Winchester. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
PDC06-103 – District 1

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-103, dated December 4, 2006, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Director was approved and [Ordinance No. 27958](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southwest Corner of Winchester Boulevard and Payne Avenue (1301 South Winchester) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0.)

- (b) Consideration of an ordinance rezoning the real property located on the west side of 26th Street, approximately 41 feet north of E. Saint John Street (103 N. 26th Street), from R-2 Two-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and construction of up to 3 new single-family detached residences on 0.23 gross acre site (Silva Anna Trustee, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).**
PDC06-041 – District 3

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 4, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-041. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

11.1 (b) (Cont'd.)

Action: The recommendation of the Planning Director and the Planning Commission was approved and [Ordinance No. 27959](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated in the R-2 Two-Family Residence Zoning District (103 N. 26th Street) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0.)

- (c) **Consideration of an ordinance rezoning the real property located on the northwest corner of Aborn Road and King Road (1685 Aborn Road) from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow 104,234 square feet for storage uses and a reduction in the parking requirement listed in Title 20 of the Municipal Code on a 1.55 gross acre site (PSI Institutional Realty Inc, Owner). SNI: West Evergreen. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1). PDC06-059 – District 7**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated December 4, 2006, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-059. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the recommendation of the Planning Commission. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Director and the Planning Commission was approved and [Ordinance No. 27960](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Aborn and King Roads (1685 Aborn Road) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to conditionally approve a Conditional Use Permit to allow the co-location of six (6) additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building on a 0.24 gross acre, in the HI Heavy Industrial Zoning District, located on the north side of Lano Street approximately 300 feet east of Almaden Expressway (419 Lano Street) (Froom Judith R Trustee & Et al., Owner). The Director of Planning, Building and Code Enforcement recommended the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit (File No. CP06-030) to allow the co-location of six additional wireless antennas at a height of approximately 52 feet on an existing 75 foot monopole with 12 existing antennas and allow associated equipment within an existing building. CEQA: Exempt.**

CP06-030 – District 7

(Continued from 12/12/06 – Item 11.6)

Documents Filed: (1) Memorandum from Council Member Nguyen and Cortese, dated January 8, 2007, recommending support of the applicant's appeal and request. (2) Supplemental memorandum from City Attorney Richard Doyle, dated January 9, 2007, transmitting additional information. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated November 17, 2006, recommending that the City Council uphold the Planning Commission's decision to conditionally approve a Conditional Use Permit. (4) Proof of Publication of Notice of Public Hearing, executed on December 1, 2006, submitted by the City Clerk. (5) Letter from Vice President and Chief Operating Officer Seth Fearey, dated December 8, 2006, encouraging efforts to improve cell phone coverage. (6) Letter from Stephen Ledoux, dated December 21, 2006, regarding Planning Commission's approval of Conditional Use Permit application of T-Mobile CP06-030. (7) Document from San José Planning Commission of site #SF-14990B. (8) Document from Steve Ledoux of site #SF-14990.

Senior Planner of Planning, Building and Code Enforcement Lee Butler provided an overview of the staff report.

Mr. Ledoux, on behalf of T-Mobile (the Applicant) spoke in favor of the appeal and urged the Council to approve the co-location without the added conditions recommended by the Planning Commission.

Public Comment: Cathy Brandhorst commented that she does not like wires and poles and that they should be kept underground.

As part of the Administrative Hearing, Council disclosures were made by Mayor Reed and Council Member Nguyen.

Motion: Council Member Nguyen moved to support the Applicant's appeal and approve the request to allow co-locations. Council Member Cortese seconded the motion.

11.2 (Cont'd.)

Council comments and questions followed.

Action: On a call for the question, the motion carried unanimously, [Resolution No. 73599](#), entitled: “A Resolution of the Council of the City of San José Upholding the Planning Commission’s Decision to Approve, Subject to Conditions a Conditional Use Permit to Use Certain Real Property Described Herein for the Purpose of Allowing the Co-location of Six (6) Cellular Telephone Antennas on an Existing Monopole Located on a 0.24 Gross Acre Site on the North Side of Lano Lane, Approximately 300 Feet East of Almaden Expressway”, was adopted, with Staff was directed to come back with more information about the history of co-locations. (9-0.)

11.3 **Administrative Hearing on consideration of an appeal of the Planning Commission’s decision to conditionally approve a Conditional Use Permit to allow an existing private club use operating without benefit of permits and to allow site improvements including an outdoor deck, parking lot, and lighting on a 0.54 gross acre site, in the CO Office Commercial Zoning District, located on the north side of Minnesota Avenue, approximately 350 feet westerly of Lincoln Avenue (1139 and 1143 Minnesota Avenue) (Alano Club West of San José and Stringfellow Properties, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends that the City Council uphold the Planning Commission’s decision to conditionally approve a Conditional Use Permit.**

CP05-038 – District 6

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Horwedel, dated November 17, 2006, recommending City Council uphold the Planning Commission’s decision to conditionally approve a Conditional Use Permit. (2) Supplemental memorandum from Director of Planning, Building and Code Enforcement Horwedel, dated January 9, 2007, transmitting additional information. (3) Proof of Publication of Notice of Public Hearing, executed on December 29, 2006, submitted by the City Clerk. (4) Letter from the public, dated December 18, 2006, regarding the on-site parking lot.

Mayor Reed and Council Member Liccardo disclosed that they had had communication with the applicant.

Senior Planner of Planning, Building and Code Enforcement Erin Morris presented the staff report.

Public Comment: Appellant Chris Piekarski spoke to the merits of the appeal. Representing the applicant, Sean Cottle, addressed comments made by the appellant. Speaking in support of the appeal were: Michael Fox Sr., Judge Lawrence Terry, Alan Douglas, Peggy Tuite, Doug Urich, Steven Tuma, Clayton Krinard, Curtis Hicks, Vern Easthouse, John Gutierrez, Alan Naysnerski, Michael Kelly, Roberto, Kenneth Love, Maritza Perez, Cole Cameron, Alethea Benoit, Tim Cunningham, Norman Lopes, Matt Grabowski, Dan Boyle, Brian Lancaster, Mike Formico, Randy Shaw, Jean Dresden and David Matthew.

11.3 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73600](#) was adopted, upholding the Planning Commission's decision to approve the Conditional Use Permit (CUP), as modified, by establishing hours of operation from 6:00 a.m. until 10:00 p.m.; reducing the size of the rear deck (not to exceed 500 feet) and requiring partial enclosure, subject to the Planning Director's approval; prohibiting the use of the deck to the hours of 7:30 a.m. and after 8:00 p.m. on weekdays and prior to 8:30 a.m. and after 7:30 p.m. on weekends; to approve resuming operations upon completion of the required phase 1 site improvements set forth in the CUP, including the proposed reduction in size (not to exceed 500 feet) and partial enclosure of the deck and other improvements as set forth on page 9, item 4, in the Staff Report to Council dated December 15, 2006, with Staff encouraged to expedite permits; requesting a community advisory council to address on-going issues as they arise; and direction to Staff to return with a status update and associated circumstances six months from implementation, was approved. (9-0.)

- 11.4 Consideration of an ordinance rezoning the real property located on the northeasterly side of Monterey Road approximately 100 feet southeasterly of Umbarger Road from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 60 single family attached residences on an approximately 3.17 gross acre site (2724 Monterey Road and 80 Umbarger Road) (Raman and Ruximaniben Patel; Christine Backhouse and Francis Gladding, Owners Pinn Bros., Applicant). CEQA: Mitigated Negative Declaration.
PDC06-015 – District 7**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on November 1, 2006, submitted by the City Clerk.

Action: This item was dropped.

- 11.5 Consideration of an ordinance rezoning the real property located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road from A Agriculture Zoning to A(PD) Planned Development Zoning District to allow up to 22 single-family detached residences on a 17.98 gross acre site (Pan Clair Gen Partnership, Owner; Dal Properties LLC/Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1).
PDC06-092 – District 8**

11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 4, 2006, transmitting the Report of the Staff of the Planning, Building and Code Enforcement on Project File No. PDC 06-092. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated December 7, 2006, transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk. (4) Neighborhood input, dated December 6, 2006, regarding the subject rezoning. (5) Letter from DAL Properties LLC, dated January 8, 2007, identifying voluntary conditions.

Council Member Cortese suggested that the Applicant state his voluntary development conditions for the record, so that they may be included in the motion by Council and spoke in favor of the proposed project.

Applicant Mark Lazzarini summarized 13 points addressed in his letter to the Council.

Public Comment: Kulwat Sidhu (adjacent property owner) spoke in opposition to the proposed access plan. Michael Mace, Larry Cargnoni; and Tom Huff endorsed the project with the new conditions.

Action: Upon motion by Council Member Cortese, seconded by Council Member Nguyen and carried unanimously, the recommendation of the Planning Director and Planning Commission was approved and [Ordinance No. 27961](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at East Side of San Felipe Road, Approximately 700 Feet Northerly of Silver Creek Road to A(PD) Planned Development Zoning District to Allow up to 22 Single-Family Detached Residences on a 17.98 Gross Acre Site", was passed for publication, with the following amendments: (1) Accept applicant's voluntary offer of additional conditions submitted for the record to Council (13 items); and (2) Direction staff to work with neighbor Mr. Sidhu, the applicant and any neighborhood groups during the Planned Development permit process to address concerns regarding the adjacent property. (9-0.)

OPEN FORUM

- (1) Robert Apgar voiced personal observations.

ADJOURNMENT

The Council of the City of San José was adjourned at 10:50 p.m.

Minutes Recorded, Prepared and Respectfully Submitted By,

Lee Price, MMC
City Clerk
Uh/1-9-07MN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

JOINT REDEVELOPMENT AGENCY ITEM

- 8.1 (a) Redevelopment Agency Board approval of a Reimbursement Agreement with Nanosolar, Inc., to provide financial assistance in an amount not to exceed \$1,500,000, for acquisition of capital equipment for its industrial and manufacturing facility in the Edenvale Redevelopment Project Area and making certain findings; and,**
- (b) City Council direction to the City Manager for the Office of Economic Development to pursue Employment Training Panel Funds, in the amount of \$500,000, to support workforce development efforts on behalf of Nanosolar.**

CEQA: Resolution No. 69699. [EDENVALE]

Documents Filed: Memorandum from City Manager Les White and Executive Director Redevelopment Agency Harry S. Mavrogenes, dated January 9, 2007, recommending the Redevelopment Agency Board approve the Reimbursement Agreement with Nanosolar, Inc. and that City Council direct the City Manager to have the Office of Economic Development pursue Employment Training Panel Funds.

Deputy Director Redevelopment Agency John Weis and Director of the Office of Economic Development Paul Krutko and Chief Executive Officer Martin Roscheisen provided an overview and slide presentation.

Council comments and questions followed.

Action: Upon motion by Council Member Williams, seconded by Council Member Cortese and carried unanimously, a Reimbursement Agreement with Nanosolar Inc. and direction to the City Manager for the Office of Economic Development to pursue Employment Training Panel Funds, were approved. (9-0.)

- 8.2 (a) Adoption of a resolution by the City Council making certain determinations, consistent with the Health and Safety Code Section 33445, as required by state law for Redevelopment Agency funding of the proposed improvements to McCabe Hall; and, [Resolution No. 73592](#), entitled: “A resolution of the Council of the City of San José Making Certain Determinations Required by State Law for the Expenditure of Redevelopment Agency Funds on Certain Public Improvements to McCabe Hall”, was adopted.**
- (b) Redevelopment Agency Board award of a contract to Environmental Systems, Inc., the low bidder in the amount of \$370,300, for the McCabe Hall Heating, Ventilation, and Air Conditioning Project, and authorization of a construction contingency in the amount of \$37,030 for a total contract amount of \$407,330.**

[MERGED]

8.2 (Cont'd.)

Documents Filed: Memorandum from Executive Director Redevelopment Agency Harry S. Mavrogenes, dated January 9, 2006, recommending adoption of a resolution and an award of contract to Environmental Systems, Inc.

Action: Upon motion by Council Member William, seconded by Council Member Campos and carried unanimously, the contract was approved and Redevelopment Agency Resolution No. 5726 was adopted. (9-0.)

8.3 **City Council and Redevelopment Agency Board approval of a Cooperation Agreement specifying the terms and conditions for the loan and employment of an Agency employee to the Office of the Mayor on a temporary basis, for up to one year.**

Documents Filed: Memorandum from Executive Director Redevelopment Agency Harry S. Mavrogenes, dated January 9, 2007, recommending approval of the Cooperation Agreement.

Public Comment: William Garbett voiced objections to the loan of an Agency employee to the Mayor's Office.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Cooperation Agreement was approved. (9-0.)

The Joint Redevelopment Agency Board was adjourned at 4:17 p.m.